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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/887,514	06/22/2001	Seiichiro Yasuzawa	KAM 18. 770(100799-09952)	5766
7590 06/19/2006 KATTEN MUCHIN ZAVIS ROSENMAN 575 MADISON AVENUE NEW YORK,, NY 10022-2585			EXAMINER VIG, NARESH	
			ART UNIT 3629	PAPER NUMBER

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/887,514

Applicant(s)

YASUZAWA, SEIICHIRO

Examiner

Naresh Vig

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is in reference to response received 30 march 2006. Claims 7 – 10 are pending for examination.

Election/Restrictions

Claims 1 – 6 and 11 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Invention I - IV, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 30 March 2006.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 – 10 are rejected under 35 U.S.C. 112, second paragraph, as being vague. Applicant recites "a step that employs real estate appraisal assessment method to determine desired selling price". It is not clear whether the Market Company gets a manual appraisal done, or, the Market Company performs its own appraisal because for example there is not claimed limitation of using data to determine the selling price. Appropriate correction is requested.

Claims 9 – 10 rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. Claims 9 and 10 claim dependency on claim 1. The omitted elements in claim 7 are Market Company having capability of making selection of desired buyers.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 – 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Khan US Publication 2001/0056395 which claims priority on US Non Provisional application 60/210,860 copy of which is referenced in this office action hereinafter known as Khan in view of Robbins US Publication 2001/0039506 which claims priority on US Non Provisional application 60/210,860, and further in view of Ferstenberg US Patent 5,873,071.

Regarding claim 7, Khan teaches electronic bargaining system and method which enables both buyers and sellers to bargain. Even though Khan does not limit the

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use of system to real estate only as claimed by the applicant, neither does Khan explicitly exclude real estate as a product to be sold using Khan invention.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Khan invention and sell real estate as a product to get the best bargain obtained by the parties involved in the transaction. Khan teaches:

capability by which an investor (applicant is claiming type of a user which can be a buyer, a seller etc.) is registered as a member [Khan, Fig. SN1 and disclosure associated with Fig. SN1].

capability by which a seller presents an outline of the subject matter to the Market Company [Khan, Fig. SN2 and disclosure associated with Fig. SN2].

Khan does not teach capability by which, the Market Company [Khan, Fig. 1 and disclosure associated with Fig. 1] executes an analysis of the business outline pertaining to the subject matter and due diligence with respect to the subject matter; employs a real estate appraisal assessment method; calculates a reasonable price range of the subject matter based on a matrix assessment; and calculates the yields pertaining to net profit amounts corresponding to two or more prices which shall minimally include the upper and lower limits within the reasonable price range in question, with such prices constituting the principal amounts (applicant is claiming Market Company gets plurality of appraisals to get matrix of values and use those values to determine price range, which is a methodology used at the time of invention by businesses to value commercial properties). However, Robbins teaches system and method to provide reasonable and accurate estimates of real estate market value

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[Robbins, 0013]. Should the applicant claim that the plurality of appraisal is done manually, then Robbins teaches plurality of manual appraisals as a prior art [0003], or else, should the applicant claim plurality of automated appraisals, Robbins teaches automated appraisals [Robbins, Fig. 5 and disclosure associated with Fig. 5]. Also, matrix assessment (e.g. plurality of appraisals, Competitive Market Analysis etc., is a disclosure which in a real estate transaction is given by a real estate agent to their client, in this case the seller to help the seller decide on the selling price for their property)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Khan as taught by Robbins to speed up appraisal and improve appraisal quality [Robbins, 0012].

Khan in view of Robbins teaches:

capability by which the seller proposes a desired selling price within the reasonable price range to the Market Company [Khan, Fig. SN2 and disclosure associated with Fig. SN2].

capability by which the Market Company discloses an outline of the subject matter, a reasonable price range, and the aforesaid yield figures to members [Khan, Fig. BF3 and disclosure associated with Fig. BF3].

capability by which a desiring member is registered by the Market Company as a prospective buyer of such subject matter (applicant is claiming type of buyer) [Khan, Fig. BF1-BF3 and disclosure associated with Fig. BF1-BF3].

capability by which the Market Company presents a business outline, and the matrix assessment to the prospective buyer and determines the adjustment rate (matrix assessment (e.g. plurality of appraisals, Competitive Market Analysis etc., is a disclosure which in a real estate transaction is given by a real estate agent to their client, in this case the buyer to help the buyer decide on the purchase price) [Khan, Fig. BF3 and disclosure associated with Fig. BF3].

capability by which the prospective buyer presents a desired buying price falling within the reasonable price range to the Market Company (obvious that buyer makes a reasonable offer to the seller).

capability that involves measures to take effect in the event that the maximum desired buying price is lower than the desired selling price and the difference is higher than the adjustment rate, by which the seller shall revise the desired selling price and present it again to the Market Company [Khan, Fig. SN3 and disclosure associated with Fig. SN3] and by which each prospective buyer shall revise their desired buying price and present it again to the Market Company [Khan, Fig. BF4 and disclosure associated with Fig. BF4] until the desired selling price and the maximum desired buying price are in equilibrium within the adjustment rate [Khan, Fig. BF4 and disclosure associated with Fig. BF4].

capability that involves measures to take effect in the event that the maximum desired buying price is higher than the desired selling price, by which the average of the desired selling price and the maximum desired buying price is presented to the seller and the prospective buyer who presented the maximum desired buying price. Khan in

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view of Robbins does not teach measures to take effect in the event that the maximum desired buying price is lower than the desired selling price and the difference is within the adjustment rate, by which the average of the desired selling price and the maximum desired buying price is presented for adjustment to the seller and the prospective buyer who presented the maximum desired buying price (applicant is claiming mid point of the price difference as the new offer price as their invention). However, Ferstenberg teaches capability to adjusting so that satisfactory intermediated exchange of commodities is substantially certain to be achieved.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Khan in view of Robbins as taught by Ferstenberg so that satisfactory intermediated exchange of commodities is substantially certain to be achieved.

Regarding claim 8, Khan in view of Robbins and Ferstenberg does not explicitly teach matrix assessment includes the DCF method; and in which the aforesaid yield is presented together with the deduction rate employed by the DCF method, the terminal rate employed by the DCF method, and one or more yield figures selected from a set consisting of yields calculated based on profitable prices obtained by the DCF method. However, as responded to earlier, Khan in view of Robbins and Ferstenberg teach plurality of appraisal methods. Also, in the disclosure originally filed by the applicant on 22 June 2001, applicant recites "[0032] For example, as the DCF method is shown in "Real Estate Income Approach Value and Investment Analysis" (written by Tsukamoto

Isao, published by Seibunsha, page 92) or "A guide to yield at the real estate" (written by Okuda Katue, published by Jyutaku-shinpou-shiya, page 54)".

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to DCF method can be use DCF method for appraising a property to improve appraisal quality.

Regarding claim 9, Khan in view of Robbins and Ferstenberg teaches capability in which the Market Company selects multiple buyers from among investors; creates a virtual subject matter; executes each and every step of the real estate network market system for such virtual subject matter; and discloses a reasonable price range pertaining to such virtual subject matter, yields pertaining to given prices relative to regularly fixed prices within the reasonable price range, and a yield pertaining to the aforesaid net profit based on a principal price equivalent to the buyer's maximum desired buying price after adjustment by the statistical method or multiple desired buying prices after adjustment by the statistical method together with the outline pertaining to such subject matters [Khan, BF4 and disclosure associated with BF4].

Regarding claim 10, Khan in view of Robbins and Ferstenberg teaches capability in which the Market Company selects a single seller and multiple buyers from among investors; executes each and every step of the real estate network market system for multiple virtual subject matters created by the Market Company; and discloses a reasonable price range of such virtual subject matters, yields pertaining to given prices

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relative to regularly fixed prices within the reasonable price range, and a yield pertaining to the aforesaid net profit value based on a principal price equivalent to the equilibrium price after adjustment by the statistical method or multiple desired buying prices after adjustment by the statistical method together with the outline pertaining to such subject matters [Khan, BF4 and disclosure associated with Fig. 4].

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 CFR '1.111 (c) to consider the references fully when responding to this office action.

1. Khan, US Provisional 60/120,680
2. Robbins, US Provisional 60/194,543

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is (571) 272-6810. The examiner can normally be reached on M-F 7:30 - 6:00 (Wednesday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Naresh Vig
Examiner
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June 10, 2006